

Application No.: 10/663,909  
Amdt. Dated: April 25, 2006  
Reply to Office Action Dated: January 25, 2006

Attorney Docket No. CMED.10022  
Page 12 of 16

### REMARKS

Claims 2-18, 20-44, 47-49, 51 and 52 are pending in the present application. Claims 3 and 47 have been amended to specify that in the embodiments defined in those claims, there is an open space at least partially in and between the first and second body portions. Support for this amendment may be found throughout the specification and figures; by way of example, see, paragraphs [0042], [0043], [0050], and [0060], and FIGS. 1-15. Withdrawn claims 29-31 were amended to be consistent with the amendment to claim 3 from which each of these claims ultimately depends. No new matter was added.

Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks, which follow the order set forth in the Office Action.

#### Rejections Under 35 U.S.C. § 102

Claims 2, 3, 6-8, 37-42, 47, 51 and 52 were rejected under 35 U.S.C. § 102(a) as being anticipated by Voiers et al., U.S. Patent No. 6,425,704. Claims 2, 3, 6-8, 37-42, 47, 51 and 52 further were rejected under 35 U.S.C. § 102(e) as being anticipated by Voiers et al., U.S. Patent No. 6,425,704. Applicants respectfully traverse these rejections.

#### 1. Independent Claim 2

Claim 2 is directed to an applicator/dispenser assembly for dispensing and/or applying a polymerizable monomeric adhesive material. The assembly comprises a first body portion and a second body portion, at least one of the first and second body portions being movable relative to the other of the first and second body portions; a cavity in at least one of the first and second body portions; and a piercing or breaking member arranged on one of the first and second body portions. Movement of one of the first and second body portions relative to the other of the first and second body portions moves the piercing or breaking member into the cavity. The piercing or breaking member comprises at least two opposing members such that both opposing members are moved into the cavity upon movement of one of the first and second body portions relative to the other of the first and second body portions.

An embodiment of the opposing members is shown in Figure 15 wherein two breaking members 416 are provided that may be positioned opposite each other. The breaking members 416 are located so that the frangible ampoule 446 is broken by the breaking members 416 when the first and second body portions 410, 420 are rotated relative

Application No.: 10/663,909  
Amdt. Dated: April 25, 2006  
Reply to Office Action Dated: January 25, 2006

Attorney Docket No. CMED.10022  
Page 13 of 16

to one another. *Paragraph [0093]*. Because the breaking members 416 are positioned opposite each other, the frangible ampoule 446 is held in place to facilitate breakage.

*Paragraph [0093]*.

Voiers et al. relates to an applicator for dispensing adhesive material which includes a container body holding the adhesive material and an applicator tip. In certain embodiments, the applicator includes a container body, a container of adhesive material contained in the container body, a shaped body of porous material, wherein the adhesive material is located in the container body in a noncontacting relationship with the porous material prior to dispensing the adhesive material, at least one breaking means located on the porous material for breaking or rupturing the container of adhesive material, and an applicator tip. *Column 3, line 63 – column 4, line 5*.

According to the Office Action, Figure 8c of Voiers et al. shows two or more opposing members, the two piercing members 56 on opposite sides of the lower face of body 50. However, the members 56 shown in Figure 8c are not "opposing members", as that term would be generally understood and as used in the specification as described above. This term as used in the present specification means that the members are opposite each other.

*Specification, paragraph [0093]*. The piercing members of Figure 8c are not opposite each other; rather, the members 56 shown are all lined up together.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Voiers et al. lacks at least the opposing members feature of claim 2. In view thereof, Voiers et al. does not anticipate the invention as defined in claim 2 and Applicants respectfully request that this rejection be withdrawn.

## **2. Independent Claims 3 and 47**

Claim 3 is directed to an applicator/dispenser assembly for dispensing and/or applying a polymerizable monomeric adhesive material. The assembly comprises a first body portion and a second body portion, at least one of the first and second body portions being movable relative to the other of the first and second body portions, an open space at least partially in and between the first and second body portions; and a piercing or breaking member arranged on one of the first and second body portions. The movement of one of the first and second body portions relative to the other of the first and second body portions moves the piercing or

Application No.: 10/663,909  
Amdt. Dated: April 25, 2006  
Reply to Office Action Dated: January 25, 2006

Attorney Docket No. CMED.10022  
Page 14 of 16

breaking member into the open space at least partially in and between the first and second body portions. The applicator/dispenser further comprises a container of adhesive material at least partially disposed within the open space at least partially in and between the first and second body portions, wherein movement of one of the first and second body portions relative to the other of the first and second body portions moves the piercing or breaking member to rupture the container.

Claim 47 is directed to a method of applying/dispersing an adhesive material. The method comprises placing a container of adhesive material at least partially into an open space at least partially in and between first and second body portions of an applicator/dispenser for dispensing and/or applying a polymerizable monomeric adhesive material. The applicator/dispenser comprises a first body portion and a second body portion, at least one of the first and second body portions being movable relative to the other of the first and second body portions; an open space at least partially in and between the first and second body portions; and a piercing or breaking member arranged on one of the first and second body portions such that movement of one of the first and second body portions relative to the other of the first and second body portions moves the piercing or breaking member into the open space at least partially in and between the first and second body portions. The method further includes moving one of the first and second body portions relative to the other of the first and second body portions to move the piercing or breaking member to rupture the container; dispensing the adhesive material from the open space at least partially in and between the first and second body portions; and applying the dispensed adhesive material to a substrate to be bonded. The substrate to be bonded is tissue.

According to the Office Action, Voiers et al. discloses an applicator/dispenser assembly in Figure 7 comprising a first body portion 20 having a cavity with a container 40 of adhesive material 30 disposed within and a second body portion 60 having a piercing member 55 arranged thereon. As described in Voiers et al., the applicator device of Figure 7 includes an applicator container or body 20 and a separate applicator tip assembly which includes an applicator tip 60 and porous shaped body 50, which applicator tip assembly is insertable into the container body 20. The porous shaped body 50 includes a spike 55 which breaks or ruptures the container 40 of adhesive material 30 when the applicator tip is inserted into the container body 20. *Column 9, lines 41-65.*

As shown in Figure 7, the open space for containing the adhesive of the applicator of Voiers et al. is only in the body portion 20. The adhesive tip as shown in Figure 7 has porous

Application No.: 10/663,909  
Amdt. Dated: April 25, 2006  
Reply to Office Action Dated: January 25, 2006

Attorney Docket No. CMED.10022  
Page 15 of 16

shaped body 50 in the applicator tip and does not have an open space formed at least partially by first and second body portions as claimed. Claims 3 and 47, as amended, include embodiments wherein the open space is at least partially in and between the first body portion and the second body portion. Thus, the structure of the applicator as shown in Figure 7 of Voiers et al. is different from the defined embodiments of claims 3 and 47 wherein the open space is part of both the first body portion and the second body portion and is between the first and second body portions. Since such a feature is not disclosed by Voiers et al., the applicator/dispenser of claim 3 and the method of claim 47 are not anticipated by Voiers et al. In view thereof, Applicants respectfully request that the rejections of these claims and those claims dependent thereon be withdrawn.

### **3. Claim 37**

Independent claim 37 is directed to a kit comprising at least one applicator/dispenser for dispensing and/or applying a polymerizable monomeric adhesive material. The kit comprises a first body portion and a second body portion, at least one of the first and second body portions being movable relative to the other of the first and second body portions; a cavity in at least one of the first and second body portions; and a piercing or breaking member arranged on one of the first and second body portions, wherein movement of one of the first and second body portions relative to the other of the first and second body portions moves the piercing or breaking member into the cavity. A plurality of containers of adhesive material is arranged to be placed at least partially in the cavity of the at least one applicator/dispenser, wherein movement of one of the first and second body portions relative to the other of the first and second body portions moves the piercing or breaking member to rupture one of the containers that is placed at least partially in the cavity.

Voiers et al. describes kits for dispensing adhesive material where the kit can include one or more applicators or adhesive containers, and two or more applicator tips that are attachable to the adhesive containers. *Column 10, lines 30-34*. The kits of Voiers et al. including one or more adhesive containers 10 and multiple applicator tips are shown in FIG. 9. Claim 37 is directed to a kit having a plurality of containers of adhesive material arranged to be placed at least partially in the cavity of at least one applicator/dispenser. Voiers et al. lacks any description of a kit having a plurality of containers of adhesive in at least one applicator/dispenser as claimed. In view thereof, Voiers et al. does not anticipate the

Application No.: 10/663,909  
Amdt. Dated: April 25, 2006  
Reply to Office Action Dated: January 25, 2006

Attorney Docket No. CMED.10022  
Page 16 of 16

invention as defined by claim 37. Applicants therefore respectfully request that the rejections of claim 37 and the claims dependent thereon be withdrawn.

#### Withdrawn Claims

Claims 17, 18, 29-36 and 49 have been withdrawn pursuant to a species election. However, because these claims all ultimately depend from generic claims that are now believed to be allowable, Applicants respectfully request that the claims to the non-elected species be rejoined, examined and allowed. As noted in the Office Action mailed November 16, 2004, upon the allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claims as provided by 37 C.F.R. § 1.141.

#### Allowed and Allowable Claims

Applicants appreciate the indication of allowed and allowable claims. In view of the foregoing amendments and comments, Applicants believe all of the pending claims are now in condition for allowance.

For the foregoing reasons, claims 2-18, 20-44, 47-49, 51 and 52 are considered allowable. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

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